

§ 162A-33. Procedure for creation; resolutions and petitions for creation; notice to and action by Commission for Public Health; notice and public hearing; resolutions creating districts; actions to set aside proceedings.

Any two or more political subdivisions in a county, or any political subdivision or subdivisions, including any existing water or sewer district, and any unincorporated area or areas located within the same county, which political subdivisions or areas need not be contiguous, may petition the board of commissioners for the creation of a metropolitan water district under the provisions of this Article by filing with the board of commissioners:

- (1) A resolution of the governing body of each such political subdivision stating the necessity for the creation of a metropolitan water district under the provisions of this Article in order to preserve and promote the public health and welfare within the area of the proposed district, and requesting the creation of a metropolitan water district having the boundaries set forth in said resolution, and
- (2) If any unincorporated area is to be included in such district, a petition, signed by not less than fifteen per centum (15%) of the voters resident within such area, defining the boundaries of such area, stating the necessity for the creation of a metropolitan water district under the provisions of this Article in order to preserve and promote the public health and welfare within the proposed district, and requesting the creation of a metropolitan water district having the boundaries set forth in such petition for such district.

If any water district, sewer district or special purpose district shall encompass wholly or in part within its boundaries a city or town, no such water district, sewer district or special purpose district may petition for inclusion within a metropolitan water district unless the governing body of such city or town shall approve such petition or shall also petition for its inclusion within such metropolitan water district.

Upon the receipt of such resolutions and petitions requesting the creation of a metropolitan water district, the board of commissioners, through its chairman shall notify the Department of Environmental Quality of the receipt of such resolutions and petitions, and shall request that a representative of the Department of Environmental Quality hold a joint public hearing with the board of commissioners concerning the creation of the proposed metropolitan water district. The Secretary of Environmental Quality and the chairman of the board of commissioners shall name a time and place within the proposed district at which the public hearing shall be held. The chairman of the board of commissioners shall give prior notice of such hearing by posting a notice at the courthouse door of the county and also by publication in a newspaper circulating in the proposed district at least once a week for four successive weeks, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the creation of such metropolitan water district cannot be concluded at such hearing, such hearing may be continued to a time and place within the proposed district determined by the board of commissioners with the concurrence of the representative of the Department of Environmental Quality.

If, after such hearing, the Commission for Public Health and the board of commissioners shall deem it advisable to comply with the request of such resolutions and petitions, and determine that the preservation and promotion of the public health and welfare in the area or areas described in such resolutions and petitions require that a metropolitan water district should be created and established, the Commission for Public Health shall adopt a resolution to that effect, defining the boundaries of such district and declaring the territory within such boundaries to be a metropolitan water district under the name and style of "____ Metropolitan Water District of ____ County"; provided that the Commission for Public Health may make minor deviations in the boundaries from those prescribed in the resolutions and petitions upon

the Commission for Public Health determining that such deviations are advisable in the interest of the public health, provided no such district shall include any political subdivision which has not petitioned for inclusion as provided for in this Article.

The Commission for Public Health shall cause copies of the resolution creating the metropolitan water district to be sent to the board of commissioners and to the governing body of each political subdivision included in the district. The board of commissioners shall cause a copy of such resolution of the Commission for Public Health to be published in a newspaper circulating within the district once in each of two successive weeks, and a notice substantially in the following form shall be published with such resolution:

"The foregoing resolution was passed by the Commission for Public Health on the ____ day of ____, ____, and was first published on the ____ day of ____, ____.

Any action or proceeding questioning the validity of said resolution or the creation of the metropolitan water district therein described must be commenced within 30 days after the first publication of said resolution.

Clerk, Board of Commissioners for
____ County."

Any action or proceeding in any court to set aside a resolution creating a metropolitan water district or to obtain any other relief upon the ground that such resolution or any proceeding or action taken with respect to the creation of such district is invalid, must be commenced within 30 days after the first publication of the resolution and said notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolution or the creation of the metropolitan water district therein described shall be asserted, nor shall the validity of the resolution or of the creation of such metropolitan water district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

Notwithstanding the provisions of G.S. 160-2(6), after the creation of a water district pursuant to the provisions of this Article a municipality or other political subdivision which owns or operates an existing water system or sewer system may lease, contract, assign or convey such system or systems to the district under and subject to such terms and conditions and for such considerations as it may deem advisable for the general welfare and benefit of its citizens. (1971, c. 815, s. 3; 1973, c. 476, s. 128; 1985, c. 462, s. 16; 1989, c. 727, s. 219(40); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-443, s. 11A.123; 1999-456, s. 59; 2007-182, s. 2; 2015-241, ss. 14.30(u), (v).)